



## The City of San Diego

### Staff Report

DATE ISSUED: 8/25/2020

TO: City Council

FROM: Council District 3

SUBJECT: Consideration of an Emergency Recall and Retention Ordinance for Employees Working in the Service and Hospitality Industry Due to the Declared State of Emergency from COVID-19

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Council District(s): Citywide

#### OVERVIEW:

COVID-19 continues to disrupt San Diego's local economy, with dramatic impacts on the hospitality and building services sectors. Prior to COVID-19 circumstances, the tourism sector was a major driver of local economic activity, particularly providing income for service workers now unemployed in disproportionately high numbers. As San Diego seeks to plan for economic recovery and stabilize the economy long-term, the proposed Recall and Retention Ordinance would provide employment certainty for when the business ownership changes, and ensure that the most experienced employees in these sectors be rehired first to promote continuity and high quality service as the public re-engages with these businesses.

#### PROPOSED ACTIONS:

Adopt an emergency ordinance to temporarily implement a recall and retention ordinance for employees working in the service and hospitality industry in the City of San Diego to address the impacts of COVID-19.

#### DISCUSSION OF ITEM:

Since the declaration of a national public health emergency on January 31, 2020, the COVID-19 pandemic has caused building service, hospitality, and travel-related employers in the City to discharge, layoff and furlough workers at a massive scale. Between March and April approximately 88,100 leisure and hospitality workers in the San Diego metropolitan statistical area lost their jobs, or 46% of the industry's workforce in the area, with only 43,300 of those jobs having returned as of July 2020 estimates. Further, SANDAG estimates that the five zip codes still experiencing the highest unemployment rates are Golden Hill, College Area, City Heights, San Ysidro, and Logan Heights – neighborhoods home to many service workers. These areas have an average unemployment rate around 20%, with one in five workers still out of work.

While federal, state, and local programs, and efforts by non-profit organizations in the city have provided some support in the short-term, workers in these industries need the promise of job security if their employer changes hands and a return to their previous jobs as the pandemic recedes and business re-open. This ordinance will minimize economic dislocation, speed the transition back to a functioning and trained labor market, and ensure fair employment practices while reducing the demand on government-funded social service programs.

The proposed ordinance would remain in effect until six months from the termination of the State of Emergency proclaimed by the Governor on March 4, 2020. Cities across the State of California including Long Beach, Los Angeles, and Oakland have enacted similar local ordinances to protect their workers.

#### Recall

When corporate ownership or management of a hotel changes, or when a building owner changes building-service contractors, the new owner, manager or contractor often hires a new workforce, retaining few, if any, of the former owner, manager, or contractor's employees. This results in mass displacement of the hotel's or building contractor's workforce. In cases of qualifying businesses re-opening following the COVID-19 public health emergency, the ordinance provides procedures for positions to be offered to qualified laid-off employees of that business in the order in which they were previously hired.

Qualifying laid-off employees are those laid off from hotel businesses with at least 100 guest rooms, with the exception of managerial, supervisory, and confidential employees; janitorial, maintenance, and security service worker employees laid off from commercial properties employing ten or more janitorial maintenance or security service employees; and employees laid off from privately-owned event centers with more than 50,000 square feet or 5,000 seats used for public performances as described. Qualifying laid-off employees would have performed at least two hours of work in a week within the City's geographic boundaries for an employer, have a length of service with the employer of six months or more in the 12 months preceding March 4, 2020 (or in the case of an event center employee, 3 month or more), and whose separation from service occurred on or after March 4, 2020.

Employers would be required to:

- Offer its laid-off employees all job positions which become available after adoption of this ordinance for which the laid-off employees are qualified.
- Provide laid-off employees a written notice of the date of their layoff and their right to recall their employment within 30 days of the adoption of this Ordinance.
- Provide laid-off employees with written notification if the employer declines to recall the laid-off employee and instead hire someone other than the laid-off employee, as specified.

### **Retention**

A transitional retention period upon change of ownership or operation of a hotel, and upon change in building services contractor, ensures employment stabilization for a segment of the community. It also alleviates the demands for social services provided by the city and other local governments due to worker displacement. Through this ordinance, the city seeks to maintain the welfare and stability of the City hotel and building services workforces.

In cases of ownership changes in qualifying businesses, the ordinance would establish a 90-day transition period for eligible employees, as defined, during which such employees may only be dismissed for cause. Following the 90-day transition period, the successor employer shall perform a written performance evaluation for use in considering continued employment of the employee. Eligible employees are those who have been employed with a qualifying business six months or longer where managerial, supervisory and confidential are exempt, and who worked for the qualifying business on or after March 4, 2020, and prior to the transfer of ownership.

Adoption of the proposed ordinance would require incumbent and successor business employers to provide job classification information on eligible employees, and maintain a preferential hiring list of eligible employees, respectively, and to post written notice of an employer change of ownership as described.

Employee retention provisions would apply to qualified employees of hotel businesses with at least 100 guest rooms, and commercial properties employing ten or more janitorial maintenance or security service employees.

**Fiscal Considerations:** The ordinance as proposed applies to private sector employers. The operational impact on the City would be minimal.

**Charter Section 225 Disclosure of Business Interests:**  
N/A; there is no contract associated with this action.

**City Strategic Plan Goal(s)/Objective(s):**

Goal 3: Create and sustain a resilient and economically prosperous City with opportunity in every community.

Environmental Impact:

This activity is not a project as defined by the California Environmental Quality Act Section 21065 and State CEQA Guidelines Section 15378(b)(5), as it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment. The determination that this activity is not subject to CEQA, pursuant to Section 15060(c)(3), and is not appealable.

Equal Opportunity Contracting Information (if applicable): N/A

Previous Council and/or Committee Actions:

On March 12th, 2020, the Mayor declared a State of Local Emergency regarding the COVID19 threat to the City of San Diego. City Council unanimously ratified the State of Local Emergency on March 17, 2020.

On July 7<sup>th</sup>, 2020, the Mayor declared and the City Council approved unanimously a Continued State of Local Emergency Regarding the COVID-19 Virus in the City of San Diego.

Key Stakeholders and Community Outreach Efforts: UNITE-HERE Local 30, SEIU-USWW, San Diego and Imperial Counties Labor Council, Center on Policy Initiatives

Molly Chase

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Chief of Staff